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Situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the periodic report on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights, in accordance with Commission on Human Rights resolution 2000/26 of 18 April 2000 and Economic and Social Council decision 2000/257 of 28 July 2000. Pursuant to the requests of the Commission on Human Rights and the Council, the report will also be made available to the members of the Security Council and the Organization for Security and Cooperation in Europe.

* A/55/150 and Corr. 1 and 2.

** In accordance with General Assembly resolution 54/248, sect C, para. 1, this report is being submitted on 9 August 2000 so as to include as much updated information as possible.

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Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

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I. Introduction

1. This is the fifth comprehensive report on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia submitted by the Special Rapporteur of the Commission on Human Rights, Jiri Dienstbier. It considers human rights developments in the countries of the Special Rapporteur's mandate through mid-July 2000.

2. As they have year after year, the field officers of the Office of the United Nations High Commissioner for Human Rights provided invaluable support to the Special Rapporteur during the past year by providing him with information, facilitating his missions and analysing the human rights situation in the countries of his mandate. He wishes to express his deep appreciation to all of them, as well as to the Governments whose financial support has made the High Commissioner's field activities possible.

II. General observations

3. The Special Rapporteur emphasizes again his view that many of the problems in the countries of his mandate can best be addressed from a regional perspective. This is one of the main reasons for the establishment of the Stability Pact. The Special Rapporteur is concerned, however, that the Stability Pact has not yet succeeded in developing or implementing a strategic global programme for reconstruction and renewal in the Balkans which adds substantially to past attempts to address the situation in the region. Many issues are best addressed from a regional perspective, including the question of refugees and internally displaced persons, the development of civil society and democratic structures, good governance, and the problem of trafficking in human beings.

4. Concerning the return of refugees, difficulties may manifest themselves in different ways in different countries, and even within countries, but the human rights principles involved are fundamentally the same. The countries of the Special Rapporteur s mandate are bound by the same international agreements recognizing the right to return and the same international human rights treaties. This should facilitate interventions by the international community and local and international non-governmental organizations (NGOs). The main challenge is to analyse the legal frameworks relating to return (on such issues as citizenship, property, security, social welfare, education and employment) equally in all the countries of the region.

5. Similarly, a regional approach is useful to address the problem of trafficking in human beings. It has become apparent that trafficking for purposes of exploitative labour, particularly forced prostitution, is one of the most significant human rights concerns in the region. The related practice of the smuggling of migrants is also increasing. Research has shown that the origins of the problem lie in the economic conditions in some countries in the region (though not in the Special Rapporteur's mandate), including Romania, the Republic of Moldova, Ukraine, Bulgaria and the Russian Federation. Bosnia and Herzegovina and Kosovo in the Federal Republic of Yugoslavia are mainly places of destination for trafficked persons, while too little is known of the situation in Croatia to be certain of its place in the process.

6. It is of concern to the Special Rapporteur that none of the countries in the region has taken an approach which stresses the human rights of the victims of trafficking rather than treating them as illegal immigrants and criminals. In Bosnia and Herzegovina, the approach has only somewhat been modified as a result of the interventions of the international community.

7. The creation of a Task Force on Trafficking in Persons in the Stability Pact may yet lead to an organized and coherent approach to what has become one of the most serious issues of human rights concern in south-east Europe.

III. Bosnia and Herzegovina

8. The Special Rapporteur visited Bosnia and Herzegovina from 24 to 26 January and 11 to 15 June 2000. During his visits he met with representatives of civil society, the media, the judiciary and the opposition as well as government authorities. He also met with officials of international organizations, including the High Representative. This report is based on information gathered during his missions as well as by staff of the field office of the United Nations High

Commissioner for Human Rights in Bosnia and Herzegovina.

A. General

9. The current political environment, lack of functioning institutions and a complicated constitutional and legal framework continue to be impediments to any real change in Bosnia and Herzegovina. The Special Rapporteur notes, however, that there has been some improvement and there is more reason for optimism than a year ago. It appears, judging by the municipal elections held in April 2000, that non-nationalistic forces are gaining ground and civil society is increasingly strong. The Special Rapporteur welcomes the establishment of the State Border Service as well as the Ministry of Human Rights and Refugees within the Council of Ministers as signs of the strengthening of the State of Bosnia and Herzegovina. Recent progress made in Mostar, which the Special Rapporteur visited in June 2000, in unifying the structures of this divided city show that progress is possible with the passing of time and determined efforts by the international community.

B. Return and property

1. Right to return

10. Nearly five years after the war's end, over 1 million refugees and displaced persons are still waiting to return to their pre-war homes or for any other form of durable solution. The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), signed in December 1995, guaranteed refugees and displaced persons the right to return to their pre-war homes in safety and with dignity. However, violations of the rights to return and to property remain by far the most pervasive of human rights violations in Bosnia and Herzegovina.

11. Obstacles range from lack of adequate security to delays in property law implementation and lack of reconstruction assistance. Although incidents of violence and harassment continue, the most intractable problem is the non-sustainability of return — returnees simply are not provided the basic necessities to survive. The solution to this can only be more effective respect for the social and economic rights of returnees, in particular the rights to housing, pensions, employment, education and health care.

12. According to a study by the Office of the United Nations High Commissioner for Refugees (UNHCR) of the situation of recent returnees, several areas of concern predominate. An extremely low percentage (3 per cent) of interviewees had secured employment since their return, while a correspondingly high percentage indicated re-employment to be their chief concern. Of interviewees who believed they were eligible for pensions, 34 per cent had been unable to secure them. Twenty-six per cent indicated they had poor access to electricity, telephones and/or water.

13. Specific obstacles facing displaced and returnee women were identified in another report prepared by UNHCR (in cooperation with the Office of the High Commissioner for Human Rights), issued in May 2000. It was found that women's fear of returning (whether or not justified) was often compounded by the lack of familial or community support, or by psychological trauma. The report recommended that serious efforts be made to ensure that vulnerable women are not forgotten, including with respect to the allocation of alternative accommodation or unclaimed apartments.

2. Right to property

14. On 27 October 1999, the High Representative, Wolfgang Petritsch, imposed amendments to the property laws, harmonizing the laws between the two entities. At the same time, he imposed laws enforcing decisions of the Commission for Real Property Claims of Displaced Persons and Refugees. This marked the beginning of a strong international push to ensure enforcement of citizens' rights to the repossession of their apartments, houses and other property — a necessary precondition for return.

15. The Special Rapporteur notes that owing to these actions and continuous international pressure, some progress has been observed. Almost every municipality has begun to implement the laws, even previously "hard-line" places. This progress was confirmed by recent UNHCR figures on registered minority returns. Between January and April 2000, 11,445 people returned to their homes in areas in which they now are minorities, which is roughly triple the number that returned last year during the same period. However, the process is still moving too slowly.

16. Until April, 211,850 claims for the return of apartments and private property had been submitted to domestic bodies in the whole of the country, according to official figures. However, only 23,801 claims had been successfully resolved. If the process continues at this pace, it will take 15 years to finish.

C. Economic and social rights

1. Employment rights

17. Discrimination in employment is a serious concern in Bosnia and Herzegovina which has a major impact on the sustainability of returns. The critical economic situation affects all groups of the population and should not serve to justify the existence of discrimination. Members of ethnic minorities and returnees in general are most vulnerable to exclusion from employment.

18. Laws prohibiting discrimination are a first step towards its prevention and elimination. The Federation Law on Labour Relations, adopted in 1999, contains a comprehensive anti-discrimination provision, while a reform of the Law on Labour Relations in the Republika Srpska is under way and should incorporate a similar article. Beyond these legal guarantees, however, more concrete and dissuasive measures must be encouraged and adopted to ensure the effective establishment of a fair employment policy throughout the country.

2. Right to education

19. The major problem in the education system is the effective division of the education system along ethnic lines. There have been several cases of physical segregation, where minority children have not been allowed to use school premises. Following direct intervention from the international community, some crises were solved; thus, the primary schools of Stolac and Vares are now shared by Croat and Bosniak returnee children. In many other areas, however, segregation continues.

20. Regarding textbooks and curricula, the Special Rapporteur notes that some progress has been made on the removal of offensive and discriminatory material from textbooks, but this needs to be followed by further steps to ensure that textbooks eventually meet European standards. The signing of the Declaration and Agreement on Education in May 2000 was a welcome step.

3. Right to the highest attainable standard of health

21. A number of factors negatively affect the health of the overall population in Bosnia and Herzegovina, impacting more severely on access to health care by vulnerable groups and the poor. Indeed, the current health system increases disparities since it is highly compartmentalized and replicates the constitutional divisions set out in the Dayton Agreement. Since there is no legal provision regarding coordination on health matters between the two entities, uneven distribution of medical care negatively affects the accessibility and cost of health services for all.

22. The fragmentation of the health system also hampers the collection and exchange of statistics, which in turn prevents the determination of efficient health policy. Funding for health insurance is also a concern. In the Federation, the health insurance law places most financing responsibilities with the cantons, but in practice, insurance funds do not have sufficient risk pools for the efficient provision of health care, so poorer cantons are exposed in a disproportionate way to unaffordable costs.

D. Civil and political rights

1. Right to life and security of person

23. Return-related incidents of violence have continued to be reported in some parts of the country. It is of serious concern that, with very few exceptions, there continues to be impunity, with perpetrators of attacks against returnees in most cases not identified, arrested or prosecuted.

24. The Special Rapporteur regrets to report that mine accidents have continued to take the lives of innocent victims, including children. At least 16 people were killed during spring and summer 2000. According to the Mine Action Centre, an estimated 1 million mines remain hidden in Bosnia and Herzegovina. Mine-clearance efforts need to be redoubled and sufficient funding allocated to mine-clearance activities, including education of children and returnees.

2. Rule of law and administration of justice

25. The basic picture of the entity police forces is unchanged. They remain overwhelmingly mono-ethnic, and continue to have unacceptably low numbers of female officers. The response of local police remains inadequate in many respects, most notably in investigations of return-related or ethnic violence as well as incidents of gender-based violence. Political interference in the work of police and the judiciary continues.

26. The United Nations Mission in Bosnia and Herzegovina (UNMIBH) undertook in late 1999 to register and authorize all law enforcement personnel in an effort to create transparency of the personnel exercising police powers. All police officers were registered and then subjected to background checks, and only those meeting the minimum requirements were authorized to exercise police powers. UNMIBH has also initiated several projects to ensure adequate minority representation in the police forces. Despite these efforts, however, progress has still been unsatisfactory.

3. War crimes and missing persons

27. The Special Rapporteur welcomes the continued apprehension by the Stabilization Force (SFOR) of indicted war criminals. It is also worth noting that the so-called "rules of the road" agreement, whereby no arrests on war crimes charges are to be carried out by national authorities before the International Tribunal for the former Yugoslavia has reviewed the file, has continued to be respected. The Special Rapporteur remains concerned at the lack of domestic prosecution of war crimes, as the Tribunal will not be able to deal with all perpetrators still at large in Bosnia and Herzegovina. However, measures will first have to be taken to ensure security for the courts and for witnesses, especially the victims of war crimes.

28. The Special Rapporteur would like to reiterate the need to clarify the fate of the almost 20,000 missing persons. He welcomes the impetus given to the identification of mortal remains by the United States of America in establishing laboratories for DNA testing. In addition, the protection of the economic and social rights of the families of missing persons needs to be given a higher priority, especially with regard to return and reintegration, health services and housing.

E. Trafficking and gender-based violence

29. It is of serious concern to the Special Rapporteur that Bosnia and Herzegovina has emerged as a significant destination point for women trafficked from Eastern Europe. There is growing evidence also that the country is serving for transit purposes and is becoming a country of origin.

30. In May 2000, UNMIBH and the Office of the High Commissioner for Human Rights released a joint report on trafficking in Bosnia and Herzegovina. The report explained the work of the international community to respond to the growing problem of trafficking. Between March 1999 and March 2000, 40 cases of trafficking or possible trafficking in persons, involving 182 women, were identified by UNMIBH. However, many other women in similar circumstances, who did not wish assistance, were also identified. According to the report, State authorities usually act to prosecute victims rather than to protect their rights. In legal proceedings, victims are often denied right to counsel and the services of a translator. In general, authorities do not appear fully to understand the complexities of the trade in human beings or its scope. However, there appears to be evidence that some law enforcement and other authorities wish to learn more about the issue.

31. Disturbing reports of police inaction in cases of domestic violence and sexual assault continued to be received by the United Nations International Police Task Force and local women's organizations. This highlights a lack of gender sensitivity and professionalism in law enforcement agencies.

F. Human rights institutions

32. The Special Rapporteur notes that there has been a trend towards greater implementation of decisions of the Human Rights Chamber and the Ombudsperson, although implementation rates are still little better than 50 per cent. Moreover, the entities have still not offered any assurance that the thousands of remaining property cases can be resolved within a reasonable time.

33. In April 2000, the first three Ombudsmen for the Republika Srpska were appointed following the adoption in February of a law establishing a multi-ethnic Ombudsman institution. The new institution will

investigate violations of human rights in the Republika Srpska and make recommendations for change.

G. Conclusions and recommendations

34. The Special Rapporteur strongly recommends an active and visible policy of mainstreaming a gender perspective into all policies and programmes, in particular regarding return, by international actors and local governments in order to assess the impact of decisions on women and men respectively.

35. While noting the need to continue to support minority returns, other durable solutions — such as local integration and settlement — will need to be found for those unable or unwilling to return.

36. The Special Rapporteur urges responsible authorities to immediately take measures to improve and accelerate the process of property-law implementation. The authorities also need to identify and create more alternative accommodation for those, often the most vulnerable, in need of it or entitled to it by law.

37. Officials and politicians should set an example by moving themselves out of other people's property which they occupy.

38. Republika Srpska authorities should, like the Federation authorities, adopt a law on labour relations introducing a comprehensive anti-discrimination provision. The authorities should ensure that discriminatory practices are severely sanctioned.

39. International assistance, particularly investments, should be subjected to the principle of conditionality upon verification of fair employment practices. A monitoring system should be established to check implementation of fair employment practices and to put pressure on employers who fail in their obligations.

40. In light of inequities in accessing health care, strategies should be elaborated to address the main problems by, inter alia, reviewing current health legislation as well as expenditures on health care. Adequate means should be found to ensure non-discrimination in policy and practice.

41. The Special Rapporteur calls on the authorities to implement the Declaration and Agreement on Education signed in May 2000.

42. The State must take responsibility for combating trafficking in persons, including by taking a rights-based approach which ensures that economic policies address the needs of potentially vulnerable groups.

43. There is a continuing need to train local and international police on human rights in general and on gender in particular.

IV. Republic of Croatia

44. The present report considers human rights developments in Croatia from March to early July 2000, paying special attention to the key issues of refugee returns, minority rights and war-crimes trials. It is based on information compiled from a variety of sources by the Office of the United Nations High Commissioner for Human Rights staff in Zagreb. The Special Rapporteur wishes to extend his appreciation, once again, to the authorities of the Republic of Croatia for their continuing cooperation with the High Commissioner's Office in Zagreb.

45. From 25 to 27 April, the Special Rapporteur conducted his fifth official visit to Croatia. He met with the President of the Republic, Stjepan Mesic, senior figures of the Government of Croatia, diplomats, and heads of international organizations. The Special Rapporteur wishes to express his satisfaction with recent political developments and with the political will for change shown by the Government as well as by President Mesic. He hopes that Croatia will not lose the momentum it has gained. The Government has moved quickly to establish cooperation with the Tribunal, but issues such as tenancy rights, property restitution, and reconstruction assistance are much more difficult to resolve, particularly at the local level.

A. Returns and reconstruction

46. According to international observers, some 6,000 Croatian Serb refugees, or roughly 1 per cent of the pre-war population, reportedly returned to Croatia in the first half of 2000 under the Government's Programme of Return. While the precise number of spontaneous returnees is difficult to determine — since many choose to return to their former homes and then leave after settling their affairs — the estimated combined figure for organized and spontaneous returns

for the first half of 2000 shows a three-fold increase over figures for the same period last year.

47. On 1 June, Parliament ratified amendments to the Law on Reconstruction, repealing discriminatory provisions against minorities and potentially allowing access to reconstruction assistance for all returnees, regardless of ethnicity. Nevertheless, the Special Rapporteur notes that the implementing instructions accompanying the Law, in fact, reinstate "priorities" that place returnee Serbs, once again, at the bottom of the list for reconstruction assistance.

48. On 14 July 2000, the Parliament adopted the law on amendments to the law on areas of special state concern. Included in the new law is a provision that property allocated for temporary use to (mostly Croat) refugees from Bosnia and Herzegovina should be returned within six months of the owner's request, with the temporary occupant to be relocated elsewhere. If this cannot be accomplished, the Government is obliged to sign a lease contract with the owner whose house is occupied. The Special Rapporteur believes that the adopted amendments bring some positive changes by enlarging the categories of beneficiaries to now include all members of the population who inhabited those areas before the war and extends its scope of application to the Danube region. The Special Rapporteur also commends the Croatian State for acknowledging, under this law, that all occupancy-rights holders who fled during the war are entitled to some measure of benefit. Nonetheless, the Special Rapporteur is concerned about the fact that this amendment fails to set up a final date for the restitution of the property to the owners, who are left in uncertainty as to the date of repossession, and the temporary occupant can de facto remain indefinitely in the property rented by the Government.

49. Despite the foregoing, the Special Rapporteur believes that progress on returns has still been slow. It is important that the Government take clear positions on the return issue and address them, particularly at the local level, to ensure that returns actually take place. This will not be easy, as local political structures are controlled mainly by the former ruling party and may remain in place at least until local elections in April 2001.

50. The Special Rapporteur is concerned over several incidents, such as the appearance in spring 2000 of posters in towns where returns were to occur listing the names of alleged Serb war criminals, which have a deterrent effect on returns. Hate speech and demonstrations instigated by extremist groups — such as protests in Gospic against the presence of an exhumation team from the Tribunal — are also major causes of fear and uncertainty.

51. The Special Rapporteur emphasizes again the importance of respecting property rights as a key to resolving the issue of returns. The Government should press forward with evictions of illegal occupants of Serb-owned houses while also ensuring the rights of these temporary occupants. Lack of progress in these cases is slowing down Serb refugee returns. The Special Rapporteur also believes that without better respect for property rights, there will be no foreign investment in Croatia.

52. In April, some 300 houses damaged during the 1991-1995 war were demolished in a predominantly Serb area of Gospic. These houses, which were abandoned and not up for reconstruction, had been assessed and recategorized as severely damaged and therefore hazardous to safety. After alleged warnings from the Public Health Service and the Building Inspectors, the county organized the demolition of these houses. However, the prefect of Gospic county admits that proper administrative procedures were not followed by local authorities. The owners of the demolished houses were not notified, either about the procedure or the date of demolition, or about entitlements to compensation or reconstruction assistance. It is important to establish proper procedures to avoid repeating this error during the demolition process in other parts of Croatia, such as in Lika-Senj county where some 600 houses were slated for destruction this year. The Deputy Prime Minister for social and political affairs, Zeljka Antunovic, promised that a list of names of the owners would be published post factum in the Official Gazette of the Republic of Croatia.

B. War crimes

53. War-crime prosecutions of ethnic Serbs are ongoing, and the Special Rapporteur again calls attention to the lack of fairness in most of these proceedings. Many prosecutions are based on group indictments which fail to specify individual criminal acts and often, individuals belonging to groups are tried in absentia. In a recent case in Vukovar, 22

individuals were under indictment but only one was present at trial. While individuals tried in absentia have a right to retrial, the practice of in absentia proceedings is troubling. The Office of the High Commissioner for Human Rights has observed that retrials may not be fair as it is often presumed that the defendant is guilty unless he or she can prove innocence. In the recent *Sodolovci case*, the judge in the retrial was the same judge who had earlier convicted the group in absentia. War-crime proceedings that violate basic fairness contribute to uncertainty in the Serb community and have a negative impact on the return process.

54. On a positive note, the recent acquittal of the five Serb defendants in the *Sodolovci case* (described in previous reports) was encouraging. The court clearly rejected the notion of collective responsibility of persons of Serb ethnicity for violations of international humanitarian law committed in Croatia during the 1991-1995 conflict. The decision could have far-reaching consequences as it may begin to ease concerns of Serb refugees who, until now, saw no guarantee of the right to a fair trial in domestic war-crime prosecutions.

55. In the ruling of the Osijek County Court on 7 July 2000, all members of the "Sodolovci group" were acquitted on the basis of insufficient evidence. Proceedings in the case had begun in 1994 and were severely criticized as violating international standards. The Supreme Court overturned the initial guilty verdicts and returned the case to the lower court, citing procedural irregularities and rejecting the notion of collective responsibility. The Court emphasized that the reasoning of the lower court had assumed a priori collective responsibility for war crimes by all participants in the armed rebellion, namely Serbs, for all crimes committed during the aggression, regardless of evidence of their personal responsibility.

56. In the retrial of Mirko Graorac, also reported previously, the defendant was pronounced guilty in June of war crimes committed against prisoners of war and civilians in 1992 while he was a commander at the Manjaca camp in Banja Luka, Bosnia and Herzegovina. Sentenced to 15 years' imprisonment, he will reportedly appeal. It will be recalled that Mr. Graorac was tried in 1996 and sentenced to 20 years' imprisonment in proceedings that were held to be unfair by international observers.

C. Rights of minorities

57. The Special Rapporteur notes the adoption by Parliament of laws dealing with the rights of minorities, including draft laws on minority languages and script and on education. Parliament has also adopted amendments to the draft constitutional law on the rights of minorities, affecting the right to political representation. While the first two laws are positive attempts to protect minority rights, the Special Rapporteur regards the third law — including its swift adoption — as cause for concern for taking away several basic privileges of the Serb community.

58. The Special Rapporteur notes that although Parliament adopted the law, it requested the Government to draft an integral constitutional law on minorities within six months, under the auspices of the Ministry of Justice and in consultation with the Council of Europe's Venice Commission.

D. Missing persons

59. The missing persons issue is a key factor in the peace and reconciliation process in Croatia and remains a pressing human rights concern. Much remains to be accomplished. For example, the Danube Subcommission on Missing Persons, constituted in 1999, is still not fully functional. Also, the Special Rapporteur notes that the Government Commission on Detained and Missing Persons has not, so far, shown any initiative either to put the names of Croatian citizens of Serb ethnicity — gone missing during the war, especially during and after 1995 army operations — on official Croatian lists of missing persons, or to assist in determining their fates.

E. Social and economic rights

60. The Special Rapporteur is deeply concerned over the difficult financial situation in Croatia. He notes the dire need for investment to improve the standard of respect for social and economic rights and to implement measures assisting vulnerable groups.

61. The Special Rapporteur notes the attempts by the Government to amend legislation to better protect the rights of workers.

62. Various sources indicate that the percentage of the unemployed in Croatia is between 18 and 20 per

cent, including some 4 per cent working in the shadow economy without social or economic rights. Reports indicate that there will be further unemployment owing to bankruptcies. Unemployment assistance is reportedly insufficient to protect the unemployed. Meanwhile, some 150,000 to 200,000 persons are working without regular payment of wages. The Special Rapporteur is concerned over the backlog of labour lawsuits in the courts, the majority of which concern unpaid wages.

F. Gender issues

63. The Special Rapporteur is pleased to note that his earlier recommendations in the area of gender are being implemented. Even though the number of women in the legislature increased substantially from 7 per cent last year to nearly 21 per cent in 2000, due consideration could also be given to including more of the broad pool of capable women professionals in Croatia in the country's public life, especially at the more senior levels.

64. The Special Rapporteur commends the initiative of the State Commission for Gender Equality Issues to introduce changes into legislation to better protect women and children, including with respect to domestic violence. He welcomes the Commission's efforts to promote gender issues on the country's public agenda and mainstream gender into Croatian society. The Special Rapporteur also welcomes Croatia's signing of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

G. Technical cooperation

65. Various ministries of the Government of Croatia have responded to the technical cooperation project of the Office of the High Commissioner for Human Rights with interest and initiative. Between March and June 2000, the Office organized a workshop on gender discrimination and violence against women for judges and prosecutors, in cooperation with the Ministry of Justice. It has also trained police officers, in cooperation with the Ministry of the Interior, and funded the translation into Croatian of the United Nations manual *Human Rights and Law Enforcement*. Together with the European Law Students Association, the Office organized two human rights round-table discussions in Zagreb. A second annual summer school for senior law students, organized by the Office was held from 17 to 28 July in Dubrovnik.

H. Conclusions and recommendations

66. Despite remarkable political changes this year, Croatia continues to fall short of meeting some of its human rights obligations. The Special Rapporteur calls upon the Government to address, as a matter of priority, the slow pace of return of internally displaced persons and refugees; the restitution of property; lack of respect for international standards of fairness in war-crimes proceedings; and delays in resolving the issue of missing persons.

67. The Special Rapporteur observes that the coming months will be crucial for Croatia to take advantage of the momentum which has already been gained and to facilitate the swift return, in safety and dignity, of all refugees and displaced persons to their homes.

68. The Special Rapporteur recommends the full use of the tripartite Croatian Economic and Social Council, comprising representatives of the Government, trade unions and employers, in legislation-making and implementation as well as in social dialogue. He recommends further revisions of labour and other legislation to improve the social and economic situation of the Croatian population, especially pensioners.

69. The Special Rapporteur reiterates his earlier calls for unbiased search criteria in resolving cases of missing persons. The fate of Croatian citizens of Serb ethnicity who went missing during the war should be treated with equal concern.

70. The Special Rapporteur would like to stress again that the emphasis in domestic war-crime prosecutions should be on bringing all perpetrators to justice, regardless of ethnicity. Future investigations and trials should take place with international participation, thus helping to ensure transparency and a process that reassures the Serb population that war-crime prosecutions transcend victor's justice. The Special Rapporteur also recommends that the practice of in absentia prosecutions be abolished.

71. The Special Rapporteur welcomes the signing in New York on 6 June 2000 of an agreement on cooperation between the Government and the High

Commissioner for Human Rights, setting out the legal status of the Office of the United Nations High Commissioner for Human Rights in Croatia. The Special Rapporteur also commends the excellent cooperation between the Government of the Republic of Croatia and the Office and the agreement between the Office and the City of Zagreb to establish a Human Rights Documentation Centre in premises provided by the Government in the centre of the city.

V. Federal Republic of Yugoslavia

72. Since submitting his last report to the General Assembly in November 1999 (A/54/396/Add.1-S/1999/1000/Add.7), the Special Rapporteur has conducted two additional missions, together with staff of the Office of the United Nations High Commissioner for Human Rights, to the Federal Republic of Yugoslavia, travelling to many localities throughout the country. He visited detainees under the jurisdiction of the Serbian Ministry of Justice in Pozarevac and others held by the United States contingent of the Kosovo Force (KFOR) at the Bondsteel base outside Urosevac/Ferizaj in Kosovo. During his last visit, the Special Rapporteur also met with many individuals who have personally been the subject of serious human rights violations.

73. The Special Rapporteur's findings for the period from October 1999 to March 2000 were reported to the Commission on Human Rights in April 2000 (E/CN.4/2000/39). The present report considers the situation of human rights from March to mid-July 2000. Given the pace of developments throughout the Federal Republic of Yugoslavia, it is possible that elements of this report will be superseded by events before the document is published. Therefore, simultaneously with the presentation of this report the Special Rapporteur will once again update the General Assembly on developments within the Federal Republic of Yugoslavia.

A. Relations with authorities

74. Since his appointment in 1998, the Special Rapporteur has enjoyed the cooperation of the Federal Ministry for Foreign Affairs in carrying out his visits to the Federal Republic of Yugoslavia. He also has benefited from the cooperation of the Serbian Ministry of Justice as well as municipal authorities in Serbia, including in Nis, Presevo and Bujanovac. In Montenegro, the Special Rapporteur wishes to acknowledge the cooperation of republican ministries and other bodies in Montenegro, including the Ministry of Foreign Affairs, the Ministry for Protection of National Minorities and the Ministry of Justice, as well as various municipal authorities.

75. The Special Rapporteur has carried out frequent missions to Pristina and elsewhere in Kosovo. Since the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK) he has enjoyed the cooperation of the Special Representative of the Secretary-General, Bernard Kouchner, as well as of KFOR, the Federal Republic of Yugoslavia Committee for Cooperation, and the leadership of local political parties. Municipal authorities in Kosovo, including in Dragash and Kosovska Mitrovica, have greatly assisted the work of the Special Rapporteur.

B. General observations

76. The Special Rapporteur notes that authorities in Belgrade, Podgorica and Pristina at present have little or no contact with each other. The three effective component parts of the Federal Republic of Yugoslavia are developing distinct systems of law and regulation as well as separate financial systems and foreign policies. Freedom of movement is so severely restricted that few individuals move from one component to another, except in flight as internally displaced persons. Other serious human rights concerns in the Federal Republic of Yugoslavia include violations of the right to personal security, widespread allegations of ill-treatment in custody, lack of due process, failure of the administration of justice, discrimination based on ethnic or national origin, and threats to freedom of expression, conscience and assembly. Killings and involuntary disappearances occur regularly, and the period covered by this report saw a proliferation of political assassinations throughout the territory of the Federal Republic of Yugoslavia.

77. The Special Rapporteur observes that groups vulnerable to violations of basic human rights now comprise the majority of the population of the Federal Republic of Yugoslavia. These include individuals belonging to national minorities, women, children, refugees, internally displaced persons, the elderly,

detainees, members of non-governmental organizations, persons who have refused to participate in military service, media representatives and persons associated with opposition views. Trafficking of persons — women, children, asylum-seekers — has also increased as a result of the long-standing regional human rights crisis.

C. Crises in Serbia proper

78. The Special Rapporteur observes that Serbia faces increasingly grave and violent violations of human rights and fundamental freedoms in the absence of rule of law and due process. Federal and republican authorities use the legal and judicial systems to legitimize political repression and criminalize opposition activity, civil society and the expression of dissent. Measures taken against lawyers and judges inhibit the rights to fair trial and due process. There is widespread lack of respect for the most basic rules of legal procedure and an increased manifestation of State terror.

1. Freedom of expression

79. Many political rallies have been held during the reporting period. In most instances the authorities did not intervene and demonstrations remained peaceful. However, the right of persons to associate freely to express opposition to the ruling parties has been seriously restricted. Throughout Serbia, opposition activists have been arrested, detained and threatened with prosecution. In many instances, allegations of ill-treatment at the hands of police and State Security have been reported.

80. The following political leaders have been detained, visited by police or summoned to court since March 2000: Nenad Canak, President of the League of Social Democrats of Vojvodina; Mile Isakov, President of the Vojvodina Democratic Reforms Party; Vuk Obradovic, President of the Social Democratic Party; Vladan Batic, President of the Democratic Christian Party of Serbia; Svetislav Basara, Vice-President of the Democratic Christian Party of Serbia; Veljimir Ilic, Mayor of Cacak and President of the New Serbia Party (sentenced in absentia in May to a five-month prison term); Milan St. Protic, Vice-President of New Serbia and coordinator of the Alliance for Changes (charged with libel by Deputy Serbian Prime Minister Milovan Bojic following the public reading of a mock indictment); Zoran Djindjic, President of the Democratic Party; Dragan Milovanovic, President of the Independent Trade Union; Riza Halimi, Mayor of Presevo (sentenced in March 2000 to a five-month prison term). Zoran Zivkovic, Mayor of Nis and Vice-President of the Democratic Party, faces charges before the military court in Nis and the civilian court of Bor. Of particular concern, on 15 June 2000 another attempt was made on the life of Serbian Renewal Movement President Vuk Draskovic. A week earlier, Serbian authorities had detained four of his bodyguards under the pretext that their weapon permits, issued in Montenegro, were not valid in Serbia. The bodyguards were still in detention at the time of the assassination attempt.

81. The Special Rapporteur also notes with concern the mass detention of opposition party members. For example, the Democratic Party reported that 75 members were detained for questioning by police between 16 and 29 May 2000 alone; the League of Social Democrats of Vojvodina reported 147 members detained by police since 1 March 2000; and the Serbian Renewal Movement reported 135 members detained in the first half of the year.

2. Freedom of association, personal security and due process

82. Mass arrests and detentions of civil sector actors began throughout the Republic of Serbia after events in Pozarevac in early May. On 2 May 2000, a legal practitioner and two activists of the organization Otpor were arrested after being brutally beaten by a group of persons, including an armed guard, associated with a local discotheque owned by Marko Milosevic, son of President Milosevic. Momcilo Veljkovic, Radojko Lukovic and legal practitioner Nebojsa Sokolovic were hospitalized in police custody. They were detained for more than six days before being heard and eventually released by an investigating magistrate. Mr. Veljkovic and Mr. Lukovic were then rearrested the same day on charges of attempted murder; Mr. Sokolovic remains at large. The investigating magistrate, Bosko Papovic, who opposed bringing charges against the three, resigned in protest and was formally relieved of duty by the Serbian Parliament. District public prosecutor Jovan Stanojevic also resigned in protest and was relieved of duty. The court then held that the detainees presented a danger to the public and remanded them to

continuing custody until 30 June 2000, when they were formally accused of attempted murder.

83. Throughout Serbia, more than 600 Otpor activists, including minors, have been detained and interrogated by police. Many have been arrested for distributing materials, putting up posters and similar "offences". The Special Rapporteur draws attention to the case of Vladimir Stojkovic, detained in Leskovac beyond the legal time limit. On 27 May 2000 he emerged from detention with injuries to his legs and head. An investigative order charges him with calling for overthrow by force of the highest organs of power ... with the intent of damaging the constitutionally determined State and social order.

84. On 9 June, the Federal Ministry of Justice denied Otpor's application to be entered in the registry of associations, public organizations and political organizations. An appeal of the decision was filed with the Supreme Court on 30 June.

85. Non-governmental organizations have been the target of searches, financial inspections and confiscations, often in violation of legal procedure. Among those subject to the sweep have been Women in Black, the Centre for Antiwar Action, the Helsinki Committee for Human Rights in Serbia, the Forum for Ethnic Relations (all in Belgrade); the Committee for Human Rights in Leskovac; and the Civic Initiatives Committee in Nis. Some members of non-governmental organizations have been called for "informative" talks and their apartments have been illegally searched. In some cases they have reportedly been physically ill-treated by State Security.

3. Freedom of expression

86. The Special Rapporteur expresses grave concern over increasing violations of freedom of expression. While the constitutionality of the Serbian Law on Public Information is being challenged before the Constitutional Court, the Law remains the authorities' instrument of choice to silence media. Fines totalling 30 million dinars have been imposed, mainly against print media, since its adoption.

87. The Special Rapporteur observes that the most recent campaign against freedom of expression increasingly uses force to deprive journalists of their liberty and media businesses of their property. It includes mass arrests of journalists. During the month of May alone, 37 journalists were arrested or detained by police throughout Serbia; many described beatings by police. In Pozarevac in early May, three journalists from the *Dan* newspaper were taken by police from apartments in the middle of the night; the Office of the High Commissioner for Human Rights intervened to locate and help release them from arbitrary detention. The Independent Association of Journalists of Serbia has issued three book-length reports on repression against the media in Serbia since the start of the year.

88. On 17 May 2000, the Government of the Republic of Serbia forcibly took over Belgrade radio and television Studio B. Republican authorities claimed that Studio B had been calling for the overthrow of the Government. Together with interruption of TV Pancevo broadcasts, the takeover of Studio B ended dissenting radio and television broadcasting in Belgrade.

89. In connection with the Pozarevac case, Kraljevo journalist Miroslav Filipovic was arrested on 8 May 2000. Accused of espionage by civilian authorities, Mr. Filipovic's case was turned over to the Military Court of Nis, which originally saw no grounds to extend his detention and released him on 12 May. Mr. Filipovic was again called before the Nis Military Court on 22 May on allegations of espionage and dissemination of false information and was remanded into custody for 30 days. Indicted under those charges on 14 June 2000, at this writing he remains in detention awaiting trial. All appeals for his release, including that of the Special Rapporteur, have so far been denied. The accusations carry a maximum sentence of 15 years.

90. Bankruptcy proceedings against ABC Produkt raise serious concerns regarding the dissemination of independent information in Serbia. ABC Produkt prints all major independent media in Serbia and has been repeatedly fined large amounts, but has always managed to pay them. On 26 June 2000, after freezing ABC Produkt's bank account, the Belgrade Higher Commercial Court ordered ABC Produkt to vacate its premises. Declaring ABC Produkt bankrupt could end independent written press in Serbia.

91. The Special Rapporteur observes that the campaign against freedom of expression also extends to writers. Criminal proceedings against author Boban Miletic for allegedly insulting the reputation of the President of the Federal Republic of Yugoslavia in a book of aphorisms several years ago ended with a guilty verdict in the district court of Zajecar and a prison term of five months.

4. Measures against lawyers and judges

92. At this writing, at least nine lawyers were being prosecuted before Serbian courts. Lawyers were among those detained and ill-treated in the mass arrests described above. Meanwhile, on 12 July the Serbian Parliament relieved 13 court officials, mostly judges, of duty. The officials, like three senior judges similarly relieved in December 1999, were noted for their independence and impartial application of law and procedure.

5. Right to due process

93. The rights to due process and to fair trial are seriously violated by all the proceedings described in this report. During a recent mission to the Federal Republic of Yugoslavia, the Special Rapporteur drew attention to the case of Vladimir Nikolic, whose case before the Belgrade district court on New Year's Eve 1999 contained numerous violations of due process, including the court's delivery of a guilty verdict on a charge that was neither brought nor tried.

94. In his previous reports, the Special Rapporteur has expressed grave concern over the unfounded arrest, ill-treatment, torture, arbitrary detention, denial of due process, and unfair trials of the thousands of Kosovo Albanians deprived of liberty as a result of the Kosovo crisis. The recent Djakovica/Gjakove trial indicates that Kosovo Albanians are still selected for harsh treatment. In Nis, 144 persons taken into custody last year went on mass trial. During nine days of hearings, a Serbian Ministry of the Interior official, Rade Vlahovic, testified that police had no warrants or orders to detain any specific person, but to detain all men of military age. Other prosecution witnesses stated that there were flaws in the evidence and that it was impossible to relate it to any specific individuals. Despite those admissions, and a total absence of evidence on the charges brought, guilty verdicts and sentences ranging from 7 to 13 years were pronounced against each of the accused.

95. In pronouncing sentence on all defendants, Judge Goran Petronijevic announced that the court deemed it "unnecessary" to establish individual responsibility for the alleged acts. The Special Rapporteur concurs with one defence attorney who concluded that the State detained, arrested, tried and sentenced the accused "only because they are Albanian".

6. Codification of practice

96. A draft law on terrorism was tabled before the Federal Assembly at the end of June 2000. Although since withdrawn for reconsideration, the legislation would legitimize treatment of any form of opposition and dissent as a threat to the constitutional order of the State. It includes an effective licence to kill, as acts committed by persons on purported grounds of preventing a terrorist act are explicitly not characterized as criminal. Moreover, all proceedings from the moment of detention are deemed a State secret.

D. Challenges in Montenegro

97. The Special Rapporteur notes that the Republic of Montenegro faces many problems typical of a society in the initial stage of transition to democracy and a market economy. Although human rights and fundamental freedoms are generally respected, lack of knowledge of some international standards, corruption, red tape and some traditional factors impede the efforts of Montenegrin authorities to bring human rights observance in line with international standards.

98. The genuine political will and determination of Montenegrin authorities to sustain a multi-party, multi-ethnic and market-oriented democracy should be encouraged by the international community. International response and assistance to those efforts are already visible but still insufficient. The difficult environment in which they take place should be taken into account: the deepening constitutional crisis in the Federal Republic of Yugoslavia, tensions between Podgorica and Belgrade, and the activity of the Second Army on the territory of Montenegro. Since Belgrade excluded representatives of Montenegro's elected majority party from federal decision-making bodies in 1998, Montenegro has not recognized the authority of the Federal Assembly or associated institutions.

99. Within the framework of the Stability Pact, the government of Montenegro has undertaken initiatives to promote the rights of individuals belonging to national minorities and the rights of women. The Special Rapporteur welcomes these initiatives and urges that they be supported. Montenegro has seen a sudden increase in issue-oriented non-governmental organizations, and with the support of international and non-governmental organizations, these new groups are

developing civil society, challenging centralization of authority and promoting the rights of individuals.

100. Montenegro must still address the involuntary disappearances, killings and forced expulsions, mainly of Muslims, during the regional conflicts of 1991-1995. One individual alleged to have been involved in such crimes, Nebojsa Ranisavljevic, has been charged with crimes against civilians before the court of Bijelo Polje. He is accused of participation in the abduction on 27 February 1993 of 20 passengers from the Belgrade-Bar train when it stopped at Strpci station. The passengers were subsequently killed in Bosnia and Herzegovina. Mr. Ranisavljevic has been in pre-trial detention for over three years, awaiting the decision of a court of first instance. Only three court sessions have been scheduled during the entire period.

E. Kosovo, one year after the arrival of the Kosovo Force and the United Nations Mission

101. In June 2000, UNMIK and KFOR marked the first anniversary of the entry of KFOR into the province after the end of the bombing campaign by the North Atlantic Treaty Organization (NATO). The general situation of human rights for persons of Albanian ethnicity in Kosovo has improved during this period. However, the human rights situation of all communities in Kosovo continues to be a major concern of the Special Rapporteur. Dozens and perhaps hundreds of individuals have been killed since June 1999 on account of their ethnicity. Moreover, reports of Albanian-on-Albanian violence are increasing, including killings and harassment of political figures or their family members. The situation for the minority communities that make up approximately 10 per cent of Kosovo's current population (principally Serbs, but also including Roma, Turks and others) has deteriorated significantly and remains the major human rights concern in the province.

102. UNMIK continues to struggle to build new institutions for Kosovo, despite the efforts of its dedicated staff, that is of great concern to the Special Rapporteur. Of most concern has been its inability to establish the rule of law and (in conjunction with KFOR) to significantly reduce violence against minorities. Progress in keeping representatives of both the Kosovo Albanian and Serb communities involved in the governing structure has been difficult to achieve. This is reflected in the efforts of UNMIK to organize municipal elections for October. While it succeeded in registering many Kosovo Albanians, despite all its efforts UNMIK has been unable to convince Serbs and other minority group members to participate. Some 200,000 non-Albanians forced out of Kosovo may not vote, while leaders of the remaining Serb population have refused to allow Serbs to participate. The likelihood is that few, if any, minorities will be elected. In addition, there is growing violence and intimidation among Kosovo Albanian political actors. The Special Rapporteur is concerned whether free and fair elections can take place at all in Kosovo under present circumstances.

1. Freedom of movement

103. Lack of freedom of movement continues to affect all Kosovo communities, but it has a particularly devastating impact on minorities. Minority communities largely live in enclaves protected by KFOR, with almost no freedom of movement within Kosovo. Their access to relatives and friends outside of the enclaves, food sources, economic and educational opportunities, medical care and other services remains severely curtailed.

2. Violence

104. Violence against minorities continues to be a grave problem. UNHCR reported that approximately 500 persons were killed during the 12-month period from mid-June 1999, a disproportionate number of whom were ethnic minorities (mainly Serbs and Roma). Cases of attacks, arson or killings involving minorities continue to be reported on a regular basis. In June, for example, four Serbs were killed and three injured in explosions of mines placed on roads travelled mainly by Serbs, and two Serbs were shot and wounded on a street in the middle of Pristina.

105. Rioting in June in northern Kosovska Mitrovica, an area with a Serb majority, led to a week-long suspension of humanitarian activities by UNHCR and other agencies. Work resumed after Yugoslav Foreign Minister Zivadin Jovanovic and the Serb political leader in Mitrovica, Oliver Ivanovic, stated that those responsible for the violence would not be protected but brought to justice.

3. Rule of law and due process

106. The Special Rapporteur notes with particular concern the continued difficulties encountered by UNMIK in establishing rule of law. He underlines the critical role a functioning and fair judiciary can play in reducing tensions in the province. The rate of prosecutions for acts of violence committed against minorities remains low as systemic problems in the criminal justice system sustain a climate of impunity. Under-staffed and under-prepared courts have had great difficulty bringing cases to trial on a reasonable schedule, resulting in the extension of pre-trial detentions, long delays in trials for those indicted, and numerous postponements of trials once begun. UNMIK has sought to address these problems by appointing international prosecutors and judges, but as of July it was able to hire only 5 judges of the 12 and 2 of the 5 prosecutors it had hoped to hire.

4. Detention

107. Despite improvements in the physical conditions of detention, the Special Rapporteur remains concerned about the rights of those deprived of liberty in Kosovo. Representatives of the court rarely, if ever, visit detainees for whom they are responsible, and defence counsels often experience difficulties in gaining timely and private access to their clients. In addition, relatives are often unable to visit detained family members.

108. The Special Rapporteur is concerned about the implementation of UNMIK regulation 1999/26, which provides for the six-month limit on pre-trial detention established by the Federal Republic of Yugoslavia law to be extended for up to one year. The regulation was adopted in December 1999 in response to the delays encountered in establishing a new judiciary after the conflict. It does not specify when a detainee can be held for more than six months nor under what conditions the extension can be terminated; does not provide for appeal of the extension decision, and provides no review of the legality of the detention itself — all serious due process concerns. The Special Rapporteur recommends that UNMIK review this regulation urgently and bring it into conformity with international standards.

5. Freedom of expression

109. Freedom of expression concerns were raised in June when UNMIK summarily closed a daily newspaper for publishing articles allegedly inciting ethnic-related violence. The eight-day closure order followed the kidnapping and murder of an ethnic Serb United Nations staff member after the daily, *Dita*, had accused him of being a member of the Serb paramilitary during the recent conflict and published his address and family details. The Special Representative of the Secretary-General subsequently issued regulations 2000/36 and 2000/37 which give the UNMIK Temporary Media Commissioner broad authority over the news media. While the Special Rapporteur recognizes the need to regulate the press for reasons of public order and security, he shares the concern of many local and international observers over the broad scope, vague language, and lack of an adequate appeal process in the regulations as issued.

6. Concerns of women and children

110. The Special Rapporteur warmly commends the working groups, comprising representatives of UNMIK, the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM) and the United Nations Development Fund for Women (UNIFEM), that are drafting laws to combat domestic violence and trafficking in women and children. The IOM Zero Tolerance Campaign against trafficking of women in and out of Kosovo, launched on 24 May, is vital for protecting the rights of women and children in the region.

7. Human rights institutions

111. The Special Rapporteur commends the establishment by UNMIK in June 2000 of an ombudsperson's office. On 10 July Marek Nowicki was appointed Ombudsperson for a term of two years. The Special Rapporteur expresses his concern that KFOR was not directly included under the Ombudsperson's jurisdiction, particularly since KFOR engages in extensive policing duties, including the arrest, detention and questioning of criminal suspects.

8. Human rights and policy

112. The Special Rapporteur recognizes that UNMIK faces enormous challenges and obstacles in fulfilling its mandate to establish institutions, the rule of law, and the principles of tolerance and peaceful coexistence in Kosovo. One major obstacle is the failure of the international community to provide the

support needed to achieve the aims of Security Council resolution 1244 (1999) of 10 June 1999. Nonetheless, the Special Rapporteur suggests that UNMIK can do much more to incorporate human rights principles into its work, even with its present limited resources. He is concerned that human rights norms are often not considered in the ongoing crises involving minority communities and urges UNMIK fully to incorporate human rights norms and practices into the development of its regulations, the training and work of its field staff — particularly the police — and the shaping of legal reform.

F. Missing persons and persons deprived of liberty

113. The highly sensitive issue of missing persons and those deprived of liberty in connection with the Kosovo crisis remains a serious obstacle to the resolution of tensions in Kosovo. In June, the International Committee of the Red Cross (ICRC) published *The Book of the Missing*, listing 3,368 missing persons of all ethnicities. The Special Rapporteur urges all communities to cooperate in the effort to locate detainees and identify the fate of the missing. He commends the ongoing work of the Office of the High Commissioner for Human Rights, the Commission on Prisoners and Detainees, ICRC and other intergovernmental and non-governmental organizations to resolve these concerns on the basis of humanitarian and human rights principles.

G. Early warning: Presevo, Bujanovac, Medvedja

114. In his last report, the Special Rapporteur drew attention to growing incidents of violence in the southern Serbian municipalities of Presevo, Bujanovac and Medvedja. Violent incidents in the region are increasing, including armed attacks on police checkpoints, arbitrary detentions, beatings, disappearances, kidnappings, and other violence against Serb and Albanian civilians. The Special Rapporteur commends the work of the Bujanovac Council for Human Rights in reporting on and protecting the rights of all persons in the region. UNMIK and KFOR should strive to prevent all infiltrations of groups of armed extremists from Kosovo that seek to destabilize the region, and the Government of the Federal Republic of Yugoslavia should prevent its security forces from committing acts of repression against Albanian citizens.

H. Conclusions and recommendations

115. One year after the end of the NATO campaign, the international community has still not found a coherent Balkan policy. Many of the ideals of the Stability Pact remain to be translated into action; in the territory of much of the Federal Republic of Yugoslavia they have scarcely been implemented at all. Violent incidents in southern Serbia and Kosovo threaten the surrounding region. Tensions within Montenegro have not led to destabilization, but recent constitutional crises generated in Belgrade may be an indicator of things to come. Despite efforts by UNMIK and KFOR, violence and harassment against all populations in Kosovo continue with effective impunity. While the overall human rights situation for Kosovar Albanians has improved since the arrival of UNMIK and KFOR, in Kosovo no Serb, regardless of age or sex, is free from the threat of violence and harassment, including the omnipresent threat to life. So long as this situation prevails, the people of Kosovo — regardless of ethnicity — will be prevented from enjoying democracy.

116. International policy to address the lingering political, economic, security and social crises of the people of the Federal Republic of Yugoslavia has simply stagnated. Policy makers seem to be waiting, expecting a new crisis within Serbia proper, Montenegro, Kosovo, or in the surrounding region. Although it is widely believed that conditions do not exist for a free and fair electoral campaign, many policy makers nevertheless hold out the prospect of elections on the territory of the Federal Republic of Yugoslavia as a panacea — not because elections may be an expression of popular will or an exercise in democracy, but because they may serve as a social and political catharsis. There are no apparent international initiatives to defuse the anticipated next Balkan crisis, but only to contain it. In this context, the Special Rapporteur sadly expects that the situation of human rights will only worsen.

117. The Special Rapporteur recommends that the Government of the Federal Republic of Yugoslavia, the republican governments of Serbia and Montenegro, and the judicial bodies appointed by UNMIK rigorously

ensure the administration of justice in accordance with international standards of due process and fair trial.

118. The repression of the rights of political expression, freedom of association, independence of the media and related civil and political rights in the Federal Republic of Yugoslavia should cease immediately.

119. All authorities should pay particular attention to the social and economic rights of the most vulnerable sections of society, including the elderly, the disabled and children.

120. All authorities should expand, not restrict, the competence of local government bodies to make decisions locally on issues of concern to the local population, particularly minorities.

121. All authorities should ensure, particularly in areas with significant minority populations, that minorities are fairly represented in all government departments.

122. All communities should cooperate in the effort to identify the fate of the missing and to facilitate the release of all persons detained in connection with the recent crisis, other than those suspected of serious violations of international humanitarian law.

123. The Government of the Federal Republic of Yugoslavia should permit access by the Office of the High Commissioner for Human Rights and ICRC to all places of detention and to all persons detained by military forces. Similarly, all court proceedings, including those held in military courts, should be accessible to monitors.

124. The Government of the Federal Republic of Yugoslavia should prevent torture and ill-treatment of those in police custody, prisons and other detention facilities and bring perpetrators to justice. Wherever persons are detained on the territory of the Federal Republic of Yugoslavia, their rights according to international standards should be respected. All authorities, including UNMIK, should pay particular attention to the rights of detainees from the vulnerable sections of society, such as juveniles, the mentally disabled and women.

125. The Government of Serbia should repeal the Law on Public Information.

126. The Government of Montenegro should expedite the proceeding against Nebojsa Ranisavljevic and make every effort to address all crimes against civilians committed on the territory of Montenegro during the regional conflicts.

127. The international community should strengthen national capacity in Montenegro through human rights awareness programmes and assistance to specifically targeted beneficiaries.

128. Community leaders in Serbia proper and Kosovo should take concrete action to bring to an end the present cycle of violence and discrimination against minorities by condemning all attacks on minorities, mobilizing community support against such actions, identifying those responsible, encouraging witnesses to come forward, and suggesting ways to prevent recurring attacks and ensure freedom of movement for everyone in Kosovo and elsewhere in Serbia.

129. To overcome what one senior official called "an environment of tolerance for intolerance and revenge", it is recommended that UNMIK take all possible steps to ensure that the provisions of all applicable laws, including UNMIK regulations, comply with international human rights standards. UNMIK should also strive to incorporate human rights norms and practices into the training and work of its field staff — particularly the UNMIK and new Kosovo police — and into legal reforms.

130. UNMIK should seek urgently to expedite the appointment in Kosovo of the full contingent of planned international judges and prosecutors — especially the two planned international appointments to the Supreme Court — to help address serious problems with the judiciary. In the light of difficulties experienced in recruitment, UNMIK should consider appointing highly qualified international lawyers to fill the existing needs.

131. UNMIK should redouble its efforts to train legal professionals — judges, prosecutors and, particularly, defence attorneys — in the practical interpretation and application of international human rights law.

132. UNMIK should review regulation 1999/26 on the extension of periods of pre-trial detention in order to ensure its conformity with international standards. In particular, it is recommended that clear standards for extensions of detention be established and detainees given the right to appeal extension decisions and the legal basis for detention.

133. UNMIK should review regulations 2000/36 and 2000/37 on the media in order to ensure that they

conform to international human rights standards and practices governing the media while preventing the dissemination of hatred.

134. KFOR should review the regulations, training programmes, codes of conduct and operational procedures for its personnel to ensure that all KFOR members carry out their duties in accordance with international human rights standards, particularly when they are acting in a law enforcement capacity.

135. KFOR should take immediate steps to ensure that all individuals detained by KFOR are treated in accordance with international standards, and that KFOR officials comply with valid court orders relating to the status of detainees.

136. The KFOR Commander should agree to provide full cooperation to the new Kosovo Ombudsperson's office by establishing procedures to ensure that security personnel will adhere to human rights standards and be held accountable for any human rights violations they commit in Kosovo.

137. The international community should provide full financial and technical support for the Kosovo Ombudsperson's office, particularly as it recruits and trains staff and begins initial operations which will determine its credibility as an independent institution capable of defending the rights of all communities in Kosovo.

138. Host States contemplating the return of refugees to Kosovo should ensure that each case is carefully and fairly evaluated in light of the potential risks faced after return, and should organize returns in a gradual manner in accordance with UNMIK and UNHCR recommendations, so that returns do not further jeopardize the economic and political stability of the region.

139. UNMIK, KFOR and all international organizations and States responsible for Kosovo should use all their energy and dedication to implement fully Security Council resolution 1244 (1999) and meet their commitments to provide all promised financial, personnel, police and judicial support necessary for UNMIK to carry out its responsibilities under that resolution.

140. Finally, the international community should end the sanctions and other forms of isolation of all the people of the Federal Republic of Yugoslavia.